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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,246	12/22/2003	William J. Garrison	BCS03192	6962
43471	7590	10/20/2008		
Motorola, Inc. Law Department 1303 East Algonquin Road 3rd Floor Schaumburg, IL 60196				
EXAMINER				
TEKLE, DANIEL T				
ART UNIT		PAPER NUMBER		
2621				
NOTIFICATION DATE		DELIVERY MODE		
10/20/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

### Office Action Summary

**Application No.**

10/743,246

**Applicant(s)**

GARRISON ET AL.

**Examiner**

DANIEL TEKLE

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 21, 2003 has been entered.

### ***Response to Argument***

Applicant's arguments with respect to claim 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The specification page 4 paragraph 15 contains language that makes claim 10 non statutory. The term "computer readable medium" as used herein, refers to any medium, signal or carrier that provides information or is useable by a processor(s). This passage of the disclosure presents intrinsic evidence showing that Applicant intends for

the term "medium" to cover something beyond physical articles or objects which are functionally or structurally interconnected with the instructions in such a manner as to enable the instructions to act as a computer component and realize their functionality. Since such a medium, signal or carrier that the term "computer readable medium" referred to may take many forms, including, but not limited to, non-volatile, volatile, and transmission media...Transmission media includes coaxial cable, copper wires and fiber optics, including the wires, i.e., electromagnetic waves that can be modulated, as in frequency, amplitude, or phase, to transmit information signals. Additionally, transmission media can take the form of acoustic or light waves, such as those generated during radio wave and infrared data communications. As such, claim 10 as written and in view of Applicant's disclosure page 4 paragraph 15 is not limited to a statutory subject matter and is therefore non-statutory.

The dependent claims included in the statement of rejection but not specifically addressed in the body of the rejection have inherent the deficiencies of their parent claim and have not resolved the deficiencies. Therefore, they are rejected based on the same rationale as applied to their parent claims above.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 and 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The new added limitation to the claim 1 and 10, means of “first AV program data and second AV different AV program data” did not find in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ficco et al. (US 2002/0054750).

**Regarding claim 1:** Ficco et al discloses a method of representing allocation of storage unit capacity within an audio/video (AV) recording device, comprising: identifying a quantity of AV program data stored on said storage unit (**paragraph 0100**); obtaining a storage schedule for new AV program data comprising of the first AV program data and the second different AV program data defined over a predetermined time period (**paragraph 0105**); obtaining a deletion schedule for old AV program data defined over said predetermined time period (**paragraph 0116**); and producing temporally dynamic indicia representative of allocation of capacity of storage unit over said predetermined time period in response to said quantity of AV program data, said storage schedule, and said deletion schedule (**paragraph 0106, 0116 and 0123-0124**).

**Regarding claim 2:** Ficco et al discloses a method of claim 1, further comprising: displaying a pictorial representation of said temporally dynamic indicia on a display device in communication with said AV recording device (**figure 12a-c**).

**Regarding claim 3:** Ficco et al discloses a method of claim 1, wherein step of producing comprises: (a) selecting a time (**paragraph 0123**); (b) determining a storage configuration of storage unit in response to quantity of AV program data, storage schedule, and deletion schedule at selected time (**paragraph 0123-0124**); (c) repeating steps (a) and (b) to determine a plurality of storage configurations for a respective plurality of times (**paragraph 0123-0124**); and (d) combining plurality of storage configurations to form said temporally dynamic indicia (**paragraph 0116 and figure 12a-c**).

**Regarding claim 4:** Ficco et al discloses a method of claim 3, further comprising: successively displaying pictorial representations of plurality of storage configurations on a display device in communication with said AV recording device to define a graphical animation (**figure 12**).

**Regarding claim 5:** Ficco et al discloses a method of claim 4, wherein graphical animation comprises a pie chart (**paragraph 0107 and figure 12**).

**Regarding claim 6:** Ficco et al discloses a method of claim 1, further comprising: modifying a recording configuration of AV recording device in response to temporally dynamic indicia (**paragraph 0123-0124 and figure 12**); and re-producing temporally dynamic indicia in response to modified recording configuration (**figure 12**).

**Regarding claim 7:** Ficco et al discloses a method of claim 6, wherein step of modifying comprises at least of: increasing compression ratio of an AV program stored on storage unit; and increasing compression ratio of an AV program scheduled for storage on storage unit (**paragraph 0006**).

**Regarding claim 8:** Ficco et al discloses a method of claim 6, wherein step of modifying comprises: deleting an AV program stored on storage device (**paragraph 0116**).

**Regarding claim 9:** Ficco et al discloses a method of claim 6, wherein step of modifying comprises: archiving an AV program stored on storage device (**paragraph 0124**).

**Regarding claim 10:** Claim 10 rejected for the same subject matter as claim 1.

**Regarding claims 11-13:** Claims 11-13 are rejected for the same subject matter as claim 4-6 respectively.

**Regarding claims 14-20:** Claims 14-20 are rejected for the same subject matter as claim 1-2 and 5-9 respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621  
/Daniel Tekle/  
Examiner, Art Unit 2621